



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
Washington, D.C. 20231  
www.uspto.gov  
DW 07-01

Paper No. 4

MARSH FISCHMANN & BREYFOGLE LLP  
SUITE 411  
3151 S. VAUGHN WAY  
AURORA, CO 80014

**COPY MAILED**

**JUL 18 2001**

**OFFICE OF PETITIONS  
A/C PATENTS**

|                               |                       |
|-------------------------------|-----------------------|
| In re Application of          | :                     |
| Hampden-Smith et al.          | : DECISION DISMISSING |
| Application No. 09/751,341    | : PETITION            |
| Filed: 29 December, 2000      | :                     |
| Atty's Docket No. 41890-01280 | :                     |

This is a decision on the petition under 37 CFR 1.181, filed on 9 March, 2001, which is treated as a petition requesting that the above-identified application, including pages 78, 82, 85, and 99 of the specification and drawing Figures 6 and 7, be accorded a filing date of 29 December, 2000.

The petition is **DISMISSED**.

On 29 December, 2000, the application was filed.

On 26 January, 2001, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application stating that the application had been accorded a filing date of 29 December, 2000, but, *inter alia*, pages 78, 82, 85, and 99 of the specification and drawing Figures 6 and 7 described in the specification appeared to have been omitted.

In response, on 9 March, 2001, the present petition and petition fee were filed. Petitioners argue that pages 78, 82, 85, and 99 of the specification and drawing Figures 6 and 8 were filed with the other application papers on 29 December, 2000, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied on 9 March, 2001. The postcard receipt shows an Office date stamp of 28 December, 2000, and acknowledges receipt, *inter alia*, of 108 pages of specification and 35 sheets of drawings. Petitioners request that the application, the missing specification pages and drawing figures, be accorded a filing date of 29 December, 2000.

The petition is dismissed because petitioners have not included a copy of the four (4) pages of specification and page(s) containing the two (2) drawing figures said to have been filed with the other application papers on 29 December, 2000, but misplaced in the Office. Petitioners should submit a renewed petition including the four (4) pages of the specification and two (2) drawing figures.

A request for reconsideration (no further petition fee is required) must be filed within **TWO MONTHS** of the date of this decision in order to be considered timely.<sup>1</sup> **This two month period is not extendable under 37 CFR 1.136(a).** If a timely petition is not filed the original disclosure will include only those papers present in the PTO on the date of deposit.

Petitioners should also note that the time period set in the "Notice" mailed on 26 January, 2001, for filing the basic filing fee, surcharge for its late filing, and additional claims fees, continues to run and is not tolled by the filing of the present petition.

The application will be retained in the Office of Petitions for a period of two (2) months to await petitioners' reply to this decision. If no renewed petition is timely filed, the application will be returned to the Office of Initial Patent Examination for further processing using only the papers present in the USPTO on the date of deposit.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner of Patents and Trademarks  
Box DAC  
Washington, D.C. 20231

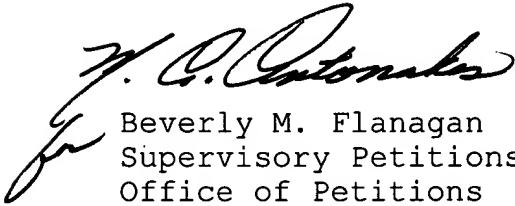
By FAX: (703)308-6916  
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite CP4-3C23  
2201 South Clark Place  
Arlington, VA 22202

---

<sup>1</sup>37 CFR 1.181(f).

Telephone inquiries should be directed to Petitions Attorney  
Douglas I. Wood at 703.308.6918.

A handwritten signature in cursive script, appearing to read "B. M. Flanagan".

Beverly M. Flanagan  
Supervisory Petitions Attorney  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy